

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:06-CR-00361-RJC-DCK

USA

v.

DEVIN NATHANIEL PORTER (1)

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ORDER

**THIS MATTER** is before the Court upon motion of the defendant for a reduction of sentence based on the First Step Act of 2018, (Doc. No. 73), to which the government consents.

The defendant was found guilty of conspiring to possess with intent to distribute at least 5 grams of cocaine base (Count One); possessing with intent to distribute at least 5 grams of cocaine base (Count Two); carrying a firearm during and in relation to a drug trafficking offense (Count Three); and possessing a firearm as a convicted felon (Count Four). (Doc. No. 34: Jury Verdict; Doc. No. 44: Judgment at 1). Based on the defendant's prior felony drug offense, (Doc. No. 22: Notice), the advisory guideline range for Counts One and Two was the enhanced statutory mandatory minimum sentence of 120 to 137 months' imprisonment and 8 years' supervised release plus 60 consecutive months for Count Three. (Doc. No. 74: Supplemental Presentence Report at 1). The Court imposed 120 months on Counts One, Two, and Four to be served concurrently, plus 60 consecutive months on Count Three. (Doc. No. 44: Judgment at 2).

Under the First Step Act, the advisory guideline range for Counts One, Two, and Four is 63 to 78 months' imprisonment and at least 6 years' supervised release on Counts One and Two. (Doc. No. 74: Supplemental Presentence Report at 2). The defendant has approximately 172 credited months in the Bureau of Prisons (BOP). (Id. at 3). Therefore, the defendant seeks a sentence on Counts One, Two, and Four of time served plus up to ten days followed by 6 years' supervised release, to which the government consents. (Doc. No. 73: Motion at 1).

In exercising its discretion under the First Step Act, the Court has considered the factors set forth in 18 U.S.C. § 3553(a), as well as the defendant's post-sentence conduct and the public's safety. Based on these factors, the Court finds that a reduction of the defendant's sentence would accomplish the goals of sentencing.

**IT IS, THEREFORE, ORDERED** that the defendant's motion, (Doc. No. 73), is **GRANTED** and the defendant's sentence for Counts One, Two, and Four is reduced to the time served, plus up to ten days for the BOP to process his release, followed by 6 years' supervised release on Counts One and Two.<sup>1</sup>

**IT IS FURTHER ORDERED** that, if the defendant is released from imprisonment without a residential plan accepted by the United States Probation Office (USPO), he shall submit to the local Residential Reentry Center for a period

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<sup>1</sup> The Court assumes the BOP will apply the defendant's credited time first to satisfy the Count Three 60-month sentence, then apply the remainder to the time-served sentence for Counts One, Two, and Four, resulting in an aggregate sentence of time served, plus up to 10 days to process his release.

not to exceed 90 days, with work release, at the direction of the USPO, as a condition of supervised release. All other conditions remain unchanged.

The Clerk is directed to certify copies of this Order to the defendant, counsel for the defendant, the United States Attorney, the United States Marshals Service, and the United States Probation Office.

Signed: March 4, 2019

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.  
United States District Judge

